A bill for an act

relating to state government; changing provisions in the energy improvement financing program; amending Minnesota Statutes 2008, section 16B.322, subdivisions 4, 5; Minnesota Statutes 2009 Supplement, section 16B.322, subdivisions 4a, 4b, 4c.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 16B.322, subdivision 4, is amended to read:

Subd. 4. **Financing agreement.** The commissioner shall solicit proposals from private financial institutions on an individual project or line of credit basis and may enter into a financing agreement with one or more financial institutions. If a financing agreement is for an individual project, the term of the financing agreement shall not exceed 15 years from the date of final completion of the energy improvement project~~. The~~ and a financing agreement is assignable to the state agency operating or managing the state building or facility improved by the energy improvement project. The term of a financing agreement on an individual project basis must be less than the average expected useful life of the energy saving measures implemented under the project. The proceeds from the financing agreement are appropriated to the commissioner and may be used for the purposes of this section and are available until spent.

Sec. 2. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4a, is amended to read:

Subd. 4a. **Financing agreement.** The commissioner of administration may, in connection with a financing agreement, covenant ~~in a master lease-purchase agreement~~ that the state will abide by the terms and provisions that are customary in net lease or lease-purchase transactions including, but not limited to, covenants providing that the state:

(1) will maintain insurance as required under the terms of the lease agreement;

(2) is responsible to the lessor for any public liability or property damage claims or costs related to the selection, use, or maintenance of the leased equipment, to the extent of insurance or self-insurance maintained by the lessee, and for costs and expenses incurred by the lessor as a result of any default by the lessee;

(3) authorizes the lessor to exercise the rights of a secured party with respect to the equipment subject to the lease in the event of default by the lessee and, in addition, for the present recovery of lease rentals due during the current term of the lease as liquidated damages.

Sec. 3. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4b, is amended to read:

Subd. 4b. **Master lease-purchase agreements not debt.** A ~~tax-exempt lease-purchase agreement related to a~~ financing agreement under this section does not constitute or create a general or moral obligation or indebtedness of the state in excess of the money from time to time appropriated or otherwise available for the payment of rent coming due under the lease, and the state has no continuing obligation to appropriate money for the payment of rent or other obligations under the ~~lease~~ agreement. Rent due under a ~~master lease-purchase~~ financing agreement under this section during a current ~~lease~~ term for which money has been appropriated is a current expense of the state.

Sec. 4. Minnesota Statutes 2009 Supplement, section 16B.322, subdivision 4c, is amended to read:

Subd. 4c. **Budget offset.** The commissioner shall require a state agency that uses the state energy improvement program to certify that the agency will budget, allocate, and commit agency funds sufficient to make rent payments under a financing agreement until all rent obligations are paid in full. In the event a participating agency fails to make a rent payment, the commissioner of management and budget shall reduce the operating ~~budgets~~ budget of the state ~~agencies that use the master lease-purchase program under a financial agreement~~ agency. The amount of the reduction is the amount sufficient to make the actual ~~master lease~~ payments.

Sec. 5. Minnesota Statutes 2008, section 16B.322, subdivision 5, is amended to read:

Subd. 5. **Qualifying energy improvement projects.** The commissioner may approve an energy improvement project ~~and enter into~~ for a financing agreement if the commissioner determines that:

(1) the project and project financing agreement have been approved by the governing body or head of the state agency that operates or manages the state building or facility to be improved;

(2) the project is technically and economically feasible;

(3) the state agency that operates or manages the state building or facility has made adequate provision for the operation and maintenance of the project;

(4) if an energy efficiency improvement, the project is calculated to result in a positive cash flow in each year the financing agreement is in effect;

(5) the project proposer has fully explored the use of conservation investment plan opportunities under section 216B.241 with the utilities providing gas and electric service to the energy improvement project;

(6) if a renewable energy improvement, the project is calculated to reduce use of fossil-fuel energy; and

(7) if a geothermal energy improvement, the project is calculated to produce savings in terms of nongeothermal energy and costs.

For the purpose of clause (6), "renewable energy" is energy produced by an eligible energy technology as defined in section 216B.1691, subdivision 1, paragraph (a), clause (1).